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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,312	10/11/2001	Yoshinori Kumasaka	SHC0151	1877

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 04/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/976,312

Applicant(s)

KUMASAKA ET AL.

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "a direction along the central longitudinal axis" in lines 12-13. The inelastic guide zones are shown in figure 1 of the instant specification as being located apart from the central longitudinal axis. It is therefore unclear how they may prevent stretching of the pants along the central longitudinal axis. For examination purposes, the Examiner assumes the claimed direction is parallel to, not along, the central longitudinal axis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Nishikawa et al. (5,591,155).

Nishikawa discloses elastically stretchable disposable pants, as shown in figures 1 and 6, comprising a pair of elastically stretchable sheet members 10, a front waist

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region 36a, a rear waist region 36b, a waist opening and a pair of leg openings defined by bonding together the front and rear waist regions 36a and 36b. Substantially inelastic guide zones 52, as shown in figure 5, are provided between the central longitudinal axis and each of the side edges and extend longitudinally in the vicinity of both the waist and leg openings. The guide zone 52 is disclosed in line 8 of the abstract as being inelastic.

With respect to claim 2, the elastically stretchable sheet members 10 comprise layers of elastically stretchable fibrous nonwoven fabric, as disclosed in column 3, lines 49-59. The guide zones 52 comprise portions of the nonwoven fabric which are molten and solidified, as disclosed in column 8, lines 5-9.

With respect to claim 4, a pad member comprising a liquid-pervious topsheet 33, a liquid-impervious backsheet 32, and a liquid absorbent core 31 is attached to an inner surface of the pants, as disclosed in column 5, lines 35-40, and shown in figure 6.

Claims 1, 3, 4, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Gompel et al. (4,940,464).

Van Gompel discloses elastically stretchable disposable pants, as shown in figure 1, comprising a pair of elastically stretchable sheet members 24, a front waist region 42, a rear waist region 4, a waist opening 10 and a pair of leg openings 12, 14 defined by bonding together the front and rear waist regions 42, 44. Substantially inelastic guide zones 28, as shown in figure 5, are provided between the central longitudinal axis and each of the side edges 50, 56, 62, 68 and extend longitudinally in

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the vicinity of both the waist and leg openings 10, 12, 14. The guide zone 28 is disclosed as being substantially inelastic in column 3, lines 24-25.

With respect to claim 3, the elastically stretchable sheet members 24 comprises layers of elastically stretchable fibrous nonwoven fabric, as disclosed in column 4, lines 31-50, and the guide zones 28 comprise inelastic strips of sheet material that are bonded to the nonwoven fabric along seam 38, as shown in figure 1.

With respect to claim 4, the pants further comprise a pad member comprising a liquid pervious topsheet 88, a liquid impervious backsheet 90, and a liquid absorbent core 92.

With respect to claim 6, the guide zones 28 are located aside toward the side edge portions 50, 56, 62, 68 of the front and rear waist regions 42, 44, as shown in figure 5.

With respect to claim 7, the guide zones 28 are located in a vicinity of the pad member, as shown in figure 5.

Response to Arguments

In response to Applicant's arguments with respect to claim 1, Nishikawa et al. (5,591,155) discloses a pair of pants comprising front and rear waist regions having outboard edge portions. The outboard edge portions are defined by the line separating the front and rear waist regions. Nishikawa further discloses an inelastic guide zones located adjacent the outboard edge portion, and therefore between the outboard edge portion and the longitudinal center line. The inelastic guide zones are not stretchable,

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and therefore prevent portions of the disposable pants from being stretched. Therefore, Nishikawa discloses the limitations of claim 1.

Applicant's arguments with respect to the rejection(s) of claim(s) 1-7 in view of Proximire (4,936,840) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Van Gompel et al. (4,940,464).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

CUA
cla
April 21, 2003



WEILUN LO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700